

## CERTIFICATE OF DOCUMENTATION FOR THE VESSEL "DELPHINUS II"

AUGUST 6, 1992.—Committed to the Committee of the Whole House and ordered to be printed

Mr. JONES of North Carolina, from the Committee on Merchant Marine and Fisheries, submitted the following

### REPORT

[To accompany H.R. 5228]

[including cost estimate of the Congressional Budget Office]

The Committee on Merchant Marine and Fisheries to whom was referred the bill (H.R. 5228) to authorize a certificate of documentation for the vessel *Delphinus II*, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### PURPOSE OF THE BILL

The purpose of H.R. 5228, as reported, is to grant coastwise trading privileges to the vessel, *Delphinus II*.

#### BACKGROUND AND NEED FOR LEGISLATION

Section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) provides that only a vessel built in the United States, documented under the laws of the United States, and owned by a citizen of the United States may transport merchandise in the coastwise trade of the United States. It also provides that a vessel that has acquired the right to engage in the coastwise trade and is later sold foreign (to an alien) or is placed under foreign registry may not engage in the coastwise trade. In addition, Chapter 121 of Title 46, United States Code, prohibits foreign-built, -owned, and -documented vessels from engaging in the U.S. coastwise trade.

A U.S.-built vessel does not permanently lose its right to engage in the fisheries of the United States if it is sold to an alien or if it is placed under foreign registry. Chapter 121 of Title 46, United States Code, establishes requirements for the issuance of a fishery

license and registry—one of which is a requirement that the vessel be built in the United States.

When the facts surrounding any particular vessel involve one or more of these statutory prohibitions, the Coast Guard will not issue a document granting coastwise trading or fisheries privileges. A vessel may acquire these privileges through special legislation authorizing the Secretary of the Department in which the Coast Guard is operating to issue the necessary documentation.

In the past, the Committee has approved special legislation when the owner proved there were extenuating circumstances, such as severe financial hardship. For example, a person may purchase a vessel or may spend considerable sums of money in U.S. shipyards to refurbish it, and only after spending the money does the owner learn that there is a defect in the chain of title or that the vessel is foreign-built, making it impossible to use in the intended trade. The Committee has also approved special legislation when the vessel or its operation was unique and documentation for commercial service or the fisheries was in the national interest.

The Administration consistently opposes any relaxation of the cabotage laws, absent some compelling reason. It feels that coastwise trading and fishing restrictions have been enacted to protect and foster United States maritime and shipyard industries and that any relaxation should be approached with caution. However, when the Congress has presented a compelling reason for a particular vessel, the Administration has not opposed special legislation.

H.R. 5228 was introduced by the Honorable Neil Abercrombie (D-HI) on May 20, 1992, to permit the issuance of a certificate of documentation for the *Delphinus II* for employment in the coastwise trade of the United States. (Senator Akaka and Senator Inouye introduced a companion bill, S. 2496, on March 31, 1992.)

The *Delphinus II*, U.S. official number 958902—a vessel of 5 gross tons and 28 feet in length—was manufactured by Delta Boats Inc. in Cape Canaveral, Florida, in 1990. The information that has been made available to the Committee is that the *Delphinus II* is currently owned by Marine Charterers Inc. of Maui, Hawaii.

Marine Charterers Inc. initially documented the vessel for coastwise trade. The initial application disclosed that the corporation had three directors, and that one of the directors was a foreign national. Nevertheless, the Coast Guard issued a coastwise endorsement. Two years later, the Corporation filed a name change application with the Coast Guard. The Coast Guard withdrew coastwise trade status, because the Corporation did not satisfy the citizenship requirements for vessel documentation. Foreign ownership never exceeded 25 percent; however, the makeup of the board of directors violated the statutory requirement regarding quorums.

Marine Charterers promptly amended its bylaws to increase the composition of the board to four with three U.S. citizens, thus satisfying the citizenship requirements. However, to legally reinstate the *Delphinus II* into the coastwise trade of the United States, the owners require a legislative waiver. Removal of coastwise status has caused financial hardship and resulted in the loss of three jobs.

## COMMITTEE ACTION

On May 20, 1992, the Subcommittee on Merchant Marine held a hearing to consider a number of bills to grant coastwise and fisheries privileges to certain vessels. Appearing at the hearing were various Members of Congress and a representative of the United States Coast Guard. On June 18, 1992, the Subcommittee on Merchant Marine marked up these bills en bloc. No amendments were offered, and the Subcommittee ordered the bills reported to the Full Committee by voice vote. On July 1, 1992, the Committee on Merchant Marine and Fisheries marked up these bills en bloc. No amendments were offered, and the Full Committee ordered the bills reported to the House by voice vote.

The *Delphinus II* was on the hearing list, and Representative Abercrombie submitted a record statement in support of his legislation. H.R. 5228 was subsequently marked up by both the Subcommittee and Full Committee and ordered reported without amendment.

## SECTION-BY-SECTION ANALYSIS

The bill consists of one section. It provides that, notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of H.R. 5228, the vessel *Delphinus II* is eligible to engage in the coastwise trade and the Secretary of Transportation may issue a certificate of documentation for such vessel.

## INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 5228 will have no significant inflationary impact on prices and costs in the operation of the national economy.

## COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate by the Committee of the costs which would be incurred in carrying out H.R. 5228. However, clause 7(d) provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

## COMPLIANCE WITH HOUSE RULE XI

1. The Subcommittee on Merchant Marine held a hearing on H.R. 5228 on May 20, 1992.

2. With respect to the requirements of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 5228 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. With respect to the requirements of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has

received no report of oversight findings and recommendations from the Committee on Government Operations on the subject of H.R. 5228.

4. With respect to the requirements of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 5228 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, July 17, 1992.

Hon. WALTER B. JONES,  
*Chairman, Committee on Merchant Marine and Fisheries,*  
*U.S. House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN. The Congressional Budget Office has reviewed the following bills, which were ordered reported by the House Committee on Merchant Marine and Fisheries on July 1, 1992:

H.R. 3005, a bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States;

H.R. 3086, a bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States;

H.R. 4191, a bill to clear certain impediments to the licensing of the vessel *Southern Yankee* for employment in the coastwise trade of the United States;

H.R. 4469, a bill to clear certain impediments to the licensing of the vessel *Hazana* for employment in the coastwise trade of the United States;

H.R. 4719, a bill to authorize issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel *Fifty-Fifty*;

H.R. 4802, a bill to authorize issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel *Mariposa*;

H.R. 4987, a bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States;

H.R. 5094, a bill to authorize issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel *A Weigh of Life*;

H.R. 5128, a bill to authorize a certificate of documentation for the vessel *Reddy Jane*;

H.R. 5148, a bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade of the United States;

H.R. 5163, a bill to authorize issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel *Wild Goose*;

H.R. 5190, a bill to clear impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States;

H.R. 5197, a bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade of the United States;

H.R. 5226, a bill to authorize a certificate of documentation for the vessel *Touch of Class*;

H.R. 5227, a bill to authorize a certificate of documentation for the vessel *Liquid Gold*;

H.R. 5228, a bill to authorize a certificate of documentation for the vessel *Delphinus II*;

H.R. 5358, a bill to authorize issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel *Caminante*;

H.R. 5410, a bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States and;

H.R. 5425, a bill to authorize issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel *High Calibre*.

Enactment of these bills would have not impact on the federal budget or on those of state or local governments. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis, who can be reached at 226-2860.

Sincerely,

*Robert D. Reischauer,*  
*Director.*

#### CHANGES IN EXISTING LAW

If enacted, H.R. 5228 would make no changes in existing law.

#### DEPARTMENTAL REPORTS

The Committee has received no departmental reports on H.R. 5228; however, a representative of the Coast Guard testified before the Subcommittee on Merchant Marine on May 20, 1992.

